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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,810	09/30/2003	Chuck DeSylva	10559-853001/P17234/Intel	3079
20985	7590	03/21/2007	EXAMINER	
FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			WOOD, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2193	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/21/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/676,810	DESYLVA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William H. Wood	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 30 September 2003.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-26 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>9/30/2003</u> .	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

Claims 1-26 are pending and have been examined.

***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 30 September 2003 is considered by the examiner.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7-8, 10-11, 14-15, 17, 22 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by **Ball** (USPN 5,615,357).

**Claim 1**

**Ball** disclosed a machine-implemented method comprising:

sampling machine instructions being performed by a processor (*figure 5A*);

identifying instruction types of the sampled machine instructions (*figure 5A*); and

presenting a metric indicating utilization of the processor by identified instruction types (*figure 5A*).

Claim 7

**Ball** disclosed the method of claim 1, further comprising selecting the instruction types to be identified from a set of available instruction categories based on received input (*column 2, lines 40-43, certain classes*).

Claim 8

**Ball** disclosed the method of claim 1, further comprising logging to an output file the utilization of the processor by identified instruction types (*figure 5A, element 56*).

Claim 10

**Ball** disclosed the method of claim 1, further comprising displaying actual processor speed in real time as the speed varies (*column 2, lines 32, execution-driven*).

Claims 11, 14-15, 17, 22 and 24-26

The limitations of claims 11, 14-15, 17, 22 and 24-26 correspond to the limitations of claims 1, 7-8 and 10 and as such are rejected in the same

manner.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 2-6, 9, 12-13, 16, 18-21 and 23 are rejected under 35 U.S.C.

103(a) as being unpatentable over **Ball** (USPN 5,615,357) in view of

**Krishnaswamy** et al. (USPN 6,622,300).

**Claim 2**

**Ball** did not explicitly state the method of claim 1, wherein sampling the machine instructions comprises: identifying machine instructions to be retired from the processor; and storing information corresponding to the machine instructions to a shared memory region. **Krishnaswamy** demonstrated that it was known at the time of invention to identify retired instructions (column 6, lines 25-26) and to store information in a shared memory (column 3, lines 41-43). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the sampling system of **Ball** with sampling from a retired area and storing in shared memory as found in **Krishnaswamy**'s

teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to make information shared across a computer system (**Krishnaswamy**: column 3, lines 25-27) and to collect information without being intrusive (**Krishnaswamy**: column 6, lines 41-45).

Claim 3

**Ball** and **Krishnaswamy** disclosed the method of claim 2, wherein identifying machine instructions to be retired from the processor comprises reading a reorder buffer in the processor (*column 9, line 23*).

Claim 4

**Ball** and **Krishnaswamy** method of claim 2, wherein the shared memory region comprises physical memory (*column 4, lines 30-32*), and identifying the instruction types comprises decoding the information stored in the shared memory region (*column 3, lines 47-48*).

Claim 5

**Ball** and **Krishnaswamy** method of claim 2, wherein presenting the metric comprises displaying a representation of real-time instruction mix utilization including an indication of a percent of the machine instructions that are optimized for the processor (**Ball**: *column 3, lines 59-61; column 2, lines 43-50, instructions executed are optimized for the processor to which they belong*).

Claim 6

**Ball** and **Krishnaswamy** method of claim 2, wherein sampling the machine instructions occurs in kernel-mode, identifying the instruction types occurs in user-mode, and presenting the metric occurs in user-mode (**Krishnaswamy**: *column 47-50; column 3, lines 51-52*).

Claim 9

**Ball** did not explicitly state, but **Krishnaswamy** did disclose the method of claim 1, further comprising:

presenting a user interface capable of receiving adjustments to a sampling interval and a sampling rate (*column 6, lines 30-33, programmed counters, certain number of events*); and

adjusting the sampling of machine instructions based on input received via the user interface (*column 6, lines 30-33, programmed counters*).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement the sampling system of **Ball** with programmable counters for sampling as found in **Krishnaswamy**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to collect information without being intrusive (**Krishnaswamy**: column 6, lines 41-45).

Claims 12-13, 16, 18-20 and 23

The limitations of claims 12-13, 16, 18-20 and 23 correspond to the limitations of claims 2-6 and 9 and as such are rejected in the same manner.

Claim 21

**Ball** and **Krishnaswamy** disclosed the system of claim 20, wherein the instruction mix monitor further comprises an instruction categories selection interface (**Krishnaswamy**: *column 6, lines 30-32, programmed*).

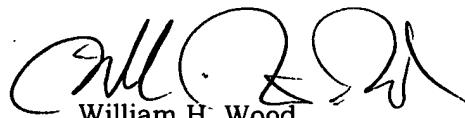
***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)-272-3756. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

  
William H. Wood  
Patent Examiner  
AU 2193  
March 19, 2007